IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 26270 of 2006

DATED: 22.10.2007

Between:
Md Yousuf petitioner

And

The Hon'ble Industrial Tribunal-cum-
Labour Court,
Rep by its Presiding Officer,
Godavarikhani, Adilabad dist and another Respondents

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THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 26270 of 2006

Oral order:

This writ petition is filed questioning the award dated 10.7.2001, passed by the Industrial Tribunal-cum-Labour Court, Godavarikhani, in I.D. No. 71 of 2000 as illegal and arbitrary.

The petitioner, while working as daily wage driver, caused an accident on 29.12.1997 on Bhainsa to Karimnagar route resulting in death of a girl aged about six years. A charge sheet was issued to the petitioner alleging rash and negligent driving and after conducting departmental enquiry he was removed from service by orders dated 3.5.1999. Aggrieved by the removal order, petitioner raised an industrial dispute and the same was registered as I D No. 71 of 2000 on the file of the Industrial Tribunal cum Labour Court, Godavarikhani, Adilabad district. The Labour Court on consideration of the matter passed an award dated 10.7.2001 dismissing the petition. Hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent No.2-Corporation. Both the counsel represent that the Labour Court, without appreciating the material and evidence on record properly, and without applying its mind to the facts of the case, has passed the impugned award.

The impugned award passed by the Labour Court is very cryptic. It does not state whether the validity or otherwise of the enquiry, was

decided as a preliminary issue.

In **Cooper Engineering Ltd., v. P.P. Mundhe**[1], the apex Court observed thus:

> "We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the labour court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue……"

It is surprising to note that the Labour Court has not given any finding about the validity or otherwise of the domestic enquiry. The Labour Court, after framing the point that arises for consideration, namely whether the charge against the petitioner is proved, if so, whether the punishment of removal of the petitioner from the service is in proportion to the charge, merely described the exhibits, and after giving a finding that the charge against the petitioner is proved, felt that the punishment of removal from service is in proportion to the charge, and accordingly dismissed the I.D. and confirmed the order of removal. I am unable to understand on what basis the Labour Court has passed such an order. The Labour Court has neither appreciated the evidence nor dealt with the issues framed by it properly, in that, it has not assigned any reason to justify how the charge leveled against the petitioner is proved and how the punishment of removal imposed is in proportion to the charge. The manner in which the Labour Court passed the impugned award, reflects that it has passed the same

without applying its mind to the facts of the case.

Since the impugned award is a cryptic award and does not disclose any reasons justifying such an award, both the learned counsel for the petitioner as well as the learned Standing Counsel for respondent No.2-Corporation submitted that the impugned award be set aside and the matter be remanded to the Labour Court for adjudication of the matter afresh after giving reasonable opportunity to both the parties to adduce evidence.

In the above view of the matter, the impugned award cannot be sustained and the same is liable to be set aside. Therefore, the writ petition is allowed, and the impugned award is set aside. The matter is remanded to the Labour Court for fresh adjudication, after giving reasonable opportunity to both the parties to adduce evidence and after appreciation of the material placed on record. No costs.

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N.V.RAMANA,J

DATED: 22.10.2007

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[1] (1975) 2 SCC 661